

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/521,461
Filed : January 18, 2005
Applicant : Javier BARTROLI ORPI
TC/A.U. : 1625
Examiner : Taofiq A. Solola
Docket No. : 3494-106
Confirmation No. : 2242
Customer No. : 06449

PETITION TO CORRECT PATENT TERM ADJUSTMENT

Director of the United States Patent
and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants re-submit their request that the Office revise the Patent Term Adjustment (PTA) calculated in connection with the above-identified U.S. patent application. The applicants previously submitted this petition on June 5, 2009, at the time the issue and publication fees were paid. Since a Request for Continued Examination had earlier been filed and any additional accrual of days for patent term adjustment, therefore, had closed, it was believed that Applicants were required to submit their request by the time the issue fee was paid. This petition was dismissed as premature on August 12, 2009. Since the patent application issued on September 15, 2009 as U.S. Patent 7,589,125, the petition is herewith re-submitted.

The number of days calculated by the Office on the Notice of Allowance and Issue Notification was 260 days. However, in view of the recent decision in *Wyeth v. Dudas*, the Applicants believe that they are entitled to additional PTA. Specifically, the PTA should be based on the number of days beyond 14 months before applicant received a first office action plus the number of days that pendency exceeded three years, minus any overlap between the two periods.

Filing date = 1/18/05

14 month date = 3/18/06

First Office Action = 6/5/07

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First period = 444 days

Three year date = 1/18/08

Request for Continued Exam filed = 12/15/08

Overlap = 0 days

Post 3-Year = 332 days

Applicant delay = 184 days

Total PTA = 592 days

Thus, the total PTA for this patent should be 592 days, not 260 days as originally calculated.

The petition fee of \$200 was previously paid to the Patent Office. Authorization is hereby given to charge any additional fee deemed necessary in connection with the filing of this paper, or credit any overpayment, to Deposit Account No. 02-2135.

Respectfully submitted,

By ___/ Barbara G. Ernst / _____
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